Case 3:06-cr-00445-SI Document 8 Filed 06/08/06 Page 1 of 3 RECEIVED JUN 0 8 2006 Federal music smarder KEVIN V. RYAN (CSBN 118321) 1 United States Attorney San Die misco 2 MARK L. KROTOSKI (CSBN 138549) FILED 3 Chief, Criminal Division TRACIE L. BROWN (CSBN 184339) 4 Assistant United States Attorney 8 2006 JUN 5 450 Golden Gate Avenue, Box 36055 RICHARD W. WIEKING San Francisco, CA 94102 6 CLERK, U.S. DISTRICT COURT Telephone: (415) 436-6917 NORTHERN DISTRICT OF CALIFORNIA Facsimile: (415) 436-7234 7 Attorneys for Plaintiff 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF CALIFORNIA 10 SAN FRANCISCO DIVISION 11 12 UNITED STATES OF AMERICA. No. 3-06-70324 EDL 13 Plaintiff, [PROPOSED] ORDER AND STIPULATION 14 CONTINUING JUNE 15, 2006 HEARING 15 ٧. TO JUNE 23, 2006, AND WAIVING TIME UNDER RÚLE 5.1 AND EXCLUDING TIME FROM JUNE 2, 2006 TO JUNE 23, COLBY SHAWN PATTON, 16 2006 FROM THE SPEEDY TRIAL ACT Defendant. CALCULATION 17 (18 U.S.C. § 3161(h)(8)(A)) 18 The parties appeared before the Court on June 2, 2006. At that time, the Court ordered 19 the defendant released on certain conditions, and scheduled a preliminary hearing/arraignment 20 date of June 15, 2006 at 9:30 a.m., before the Honorable Maria-Elena James. 21 22 The parties have since stipulated to continue the June 15, 2006 preliminary hearing/arraignment and reschedule it for June 23, 2006 at 9:30 a.m., before the Honorable 23 Maria-Elena James. This stipulation and [proposed] order (1) schedules a new hearing date, (2) 24 documents the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1, 25 and (3) documents the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), 26 from June 2, 2006 to June 23, 2006. 27 The parties have agreed, and the Court finds and holds, as follows: 28

- 1. The defendant waives the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny the defense reasonable time necessary for effective preparation, taking into account the exercise of due diligence and the government's need to produce discovery in the near future, and would deny the defendant continuity of counsel.
- 2. Counsel for the defense believes that postponing the preliminary hearing is in his client's best interest, and that it is not in his client's interest for the United States to indict the case before the currently scheduled preliminary hearing/arraignment date. The parties are discussing the different charges that the defendant may be facing, as well as the possible provision of relevant information from the defendant to the government.
- 3. The defendant agrees to an exclusion of time under the Speedy Trial Act. Failure to grant the requested continuance would unreasonably deny both government and defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and the need for both sides to investigate the facts of the case, and would deny the defendant and the government continuity of counsel.
- 4. Given these circumstances, the Court finds that the ends of justice served by excluding the period from June 2, 2006 to June 23, 2006, outweigh the best interest of the public and the defendant in a speedy trial. <u>Id.</u> § 3161(h)(8)(A).
- 5. Accordingly, and with the consent of the defendant, the Court orders that the period from June 2, 2006 to June 23, 2006 be excluded from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).
- 6. The Court vacates the June 15, 2006 date and schedules a new preliminary hearing/arraignment date of June 23, 2006, at 9:30 a.m., before the Honorable Maria-Elena James.

IT IS SO STIPULATED.

DATED:	/s/
	TRACIE L. BROWN
	Assistant United States Attorney

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2	DATED: 6/8/06
3	IT IS SO ORDERED.
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JOSH COHEN Attorney for COLBY SHAWN PATTON

THE HON MARIA-ELENA JAMES
United States Magistrate Judge